GENERAL DISCHARGE PERMIT FOR ANIMAL FEEDING OPERATIONS, GENERAL NPDES PERMIT MDG01, STATE DISCHARGE PERMIT 09AF BEFORE THE LAND MANAGEMENT ADMINISTRATION

NUMBER: CO-10-

## GENERAL COMPLIANCE SCHEDULE FOR APPLICANTS FOR CAFO COVERAGE

The Maryland Department of the Environment ("MDE") adopted regulations, effective January 12, 2009, that expanded the scope of operations defined as concentrated animal feeding operations or "CAFOs" that require a surface water discharge permit.

The regulations included a general discharge permit, General NPDES Permit MDG01, State Discharge Permit 09AF ("Permit"), establishing operational requirements and management practices that apply to CAFOs, with an effective date of December 1, 2009.

The Permit requires that many of the specific management practices for a given operation are to be included in a Comprehensive Nutrient Management Plan ("CNMP") prepared by the Natural Resources Conservation Service ("NRCS"), Maryland Department of Agriculture ("MDA"), Soil Conservation District ("SCD") and/or a Technical Service Provider ("TSP") certified by the Natural Resource Conservation Service ("NRCS"), in conformance with NRCS planning policy and technical standards.

MDE regulations and regulations of the United States Environmental Protection Agency ("EPA") required CAFOs that discharge or propose to discharge to waters of the U.S. to apply for a discharge permit on or before February 27, 2009.

A CAFO that wishes to apply for coverage under the Permit must submit to MDE a notice of intent ("NOI") along with a CNMP, which upon submission are subject to MDE approval and public review.

As of September 17 2009, MDE has received over 480 NOIs for coverage under the CAFO provisions of the Permit:

Because of NRCS, MDA, and SCD current workloads, along with the insufficient number of certified of TSP to develop CNMPs, timely submission of a CNMP may be beyond the full control of applicants that have currently submitted NOIs. However, there are steps that applicants can take to accelerate the process and to minimize the risk of water pollution posed by their operations before a CNMP has been completed.

MDE and the undersigned applicant or applicants ("Applicant") agree to the terms of this General Compliance Schedule for Applicants for CAFO Coverage ("Compliance Schedule"), as follows:

- 1. Prior to signing of this Compliance Schedule, Applicant agrees to have that a current and complete NOI on file with MDE. If any information in the NOI changes, Applicant agrees to submit an updated NOI with MDE within 30 days.
- 2. Within 20 days after the effective date of this Compliance Schedule, Applicant agrees to submit to MDE a copy of the current Maryland Department of Agriculture ("MDA") required Nutrient Management Plan ("NMP"), as required by the Code of Maryland Regulations ("COMAR") 15.20.07 and 15.20.08, for the CAFO. Applicant agrees to update the NMP as required by law and the terms of the NMP and submit to MDE an updated NMP within 30 days of the completion of each update.
- 3. Applicant agrees to operate the CAFO, including land applications and all animal waste storage and distribution systems, in accordance with the current NMP.
- 4. Within 30 days after the effective date of this Compliance Schedule, Applicant agrees to hire a TSP or apply to NRCS for the preparation of a CNMP and file a CNMP Status

Form with MDE (Attachment A). Applicant agrees to timely and fully comply with any deadline, fee or request for information necessary for the efficient processing and completion of the CNMP. Applicant agrees to file an updated CNMP Status Form with MDE, on or before the following dates, until a completed CNMP is filed with MDE: June 30 and December 30.

- 5. Applicant agrees to file a CNMP with MDE within 30 days of obtaining the CNMP from NRCS, MDA, SCD or a TSP and no later than 60 days after MDE issues written notice to the Applicant that the filing of the CNMP, pursuant to the terms of this Compliance Schedule, is required. MDE would issue this written notice after receiving notification from NRCS, MDA, SCD or a TSP that the CNMP is being developed. MDE's notice will be sent by regular U.S. Mail to the address provided by the Applicant in the NOI.
- 6. Upon execution of this Compliance Schedule and prior to MDE approving Applicant's coverage by the Permit, Applicant agrees to comply with the following provisions of the Permit (Attachment B), which are made part of the Compliance Schedule: Part II, Part IV(A)(2)-(7), (B)(1)-(5), (B)(7)-(9), (C)(1)-(3), (D)-(G), Part V, Part VII, and Appendix A. For purposes of this Compliance Schedule, any reference in the Permit to the term "permittee" means "Applicant" and any reference to the terms "permit" or "general permit" means "Compliance Schedule."
- 7. During all periods of time in which Applicant is in full compliance with the terms of this Compliance Agreement, MDE agrees not to bring any enforcement actions against the Applicant for operating a CAFO without a Permit, in violation of Title 9, Subtitle 3 of the Environment Article and the corresponding regulations. MDE reserves, and this Compliance Schedule is without prejudice to, all rights against Applicant with respect to the following

- matters: (a) violations not arising from failure to have a NPDES permit for the operation of a CAFO; (b) violations of this Compliance Schedule; and (c) criminal enforcement actions.
- 8. Upon 30 days advance written notice, Applicant can terminate this Compliance Schedule for any reason. Upon 30 days advance written notice, MDE can terminate this Compliance Schedule if any of the information in the NOI, NMP, CNMP Status Form, or this Compliance Schedule is not true, accurate and/or complete or if Applicant fails to comply with any term of this Compliance Schedule
- 9. Nothing in this Compliance Schedule shall be construed to relieve Applicant of any liability for violation or obligation under local, municipal, or federal laws and regulations or to affect any right, claim, cause of action, or defense of any party to it with respect to third parties.
  - 10. This Compliance Schedule is a final administrative order.
  - 11. The laws of the State of Maryland shall govern this Compliance Schedule.
- 12. No modifications of this Compliance Schedule, or any part of it, shall be valid except by written amendment executed by all parties.
- 13. If the Applicant is a business entity, the Applicant represents that it is in good standing and is authorized to conduct business in the State of Maryland. The person signing this Compliance Schedule on behalf of the Applicant represents under penalties of perjury that he or she is authorized to bind the Applicant to the terms of this Compliance Schedule.
- 14. Applicant and MDE agree that if any of the provisions of this Compliance Schedule contravene or are held to be invalid under any applicable law, such provisions shall not invalidate the Compliance Schedule in its entirety, but the Compliance Schedule shall be

construed as if not containing the particular provisions and all remaining obligations of the parties shall remain in effect and in force to the maximum extent reasonable.

| 15.                                    | This Compliance Sch                                | nedule shall become effective upon execution by MDE and  |
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| Applicant.                             |  |  |
| This Complia                           | nce Schedule is agreed                             | to and its terms and conditions consented to:            |
| Name of Appl                           | icant:   |  |
| DATE                                   |  | Signature of Applicant                                   |
|  | s a business entity, plea<br>alf of the Applicant: | se complete the following information for the person who |
| Printed Name                           |  |  |
| Title                                  |  |  |
| DATE                                   |  | Horacio Tablada, Director Land Management Administration |
| Approved as to legal sufficient day of | cy this  | Land Management Administration                           |
| Andrea S. Bak<br>Deputy Couns          |  |  |